

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION

DOCKET NO. 1:07CR106

FILED
ASHEVILLE, N.C.
MAR 25 2009
U.S. DISTRICT COURT
W. DIST. OF N.C.

UNITED STATES OF AMERICA,

Plaintiff,

v.

JAMES OTIS HENDERSON
a/k/a JAMIE HENDERSON,

and

HENDERSON AMUSEMENT, INC.,

Defendant.

SECOND

**PRELIMINARY ORDER
OF FORFEITURE**

and

**AMENDMENT OF MONEY
JUDGMENT**

As a result of the guilty pleas of the defendants to the violations stated in the Bill of Information, for which the United States sought forfeiture pursuant to 18 U.S.C. §§ 981, 982, 1955, and 2461(c), the two defendants shall forfeit to the United States all property constituting or derived from any proceeds the defendants obtained, directly or indirectly, as a result of such violations; and/or all property used or intended to be used in any manner or part to commit or facilitate the commission of the violations.

The Court has determined, based on the Bill of Information, the guilty pleas and Consent Orders and Judgments of Forfeiture of the defendants, and the Joint Motion for Second Supplemental Order of Forfeiture By Substitution of Property and by Payment of Portion of Money Judgment filed jointly by the United States and the defendants that the below-described property is subject to forfeiture pursuant to 21 U.S.C. § 853 and that the government has established the requisite nexus between such property and such violations and that the defendant had an interest in the property.

It is therefore **ORDERED**:

1. Pursuant to Fed. R. Crim. P. 32.2(e) and 18 U.S.C. § 853(p) providing for the forfeiture of substitute property, the following property is hereby forfeited to the United States for disposition according to law, subject to the provisions of 21 U.S.C. § 853(n):

- personal property of the value of **\$211,000**:

- 15 pool tables
- 40 arcade games
- 300 video games
- 5 juke boxes

2. The Attorney General (or his designee) is authorized to seize the forfeited property subject to forfeiture; to conduct any discovery proper in identifying, locating, or disposing of the property; and to commence proceedings that comply with any statutes governing third party rights. Fed. R. Crim. P. 32.2(b)(3).

3. Pursuant to 21 U.S.C. § 853(n)(1), the government shall publish three times in a newspaper of general circulation, notice of this order and of its intent to dispose of the property in such manner as the United States may direct. In lieu of newspaper publication, the government may publish notice on the internet as permitted by law. The United States may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in property that is the subject of this order of forfeiture, as a substitute for published notice as to those persons so notified.

4. Any person, other than the defendants, having or claiming a legal interest in any of the above-listed forfeited property may, within thirty days of the final publication of notice or of receipt of actual notice, whichever is earlier, petition the Court for a hearing without a jury to

adjudicate the validity of the petitioner's alleged interest in the property, and for an amendment of the order of forfeiture pursuant to 21 U.S.C. § 853(n). The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title or interest in each of the forfeited properties; the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property; and any additional facts supporting the petitioner's claim and the relief sought. 21 U.S.C. § 853(n)(2) and (3).

5. Upon adjudication of third-party interests, if any, this Court will enter a Final Order of Forfeiture pursuant to 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32(c)(2), and if no third party shall file a petition, this Order shall be fully effective as a Final Order of Forfeiture.

It is further **ORDERED**:

6. A portion of the previously-ordered forfeiture money judgment of \$10,000,000.00 having been paid by the defendants in United States currency and by substitution of property as described in Joint Motion for Second Supplemental Order of Forfeiture By Substitution of Property and by Payment of Portion of Money Judgment, the forfeiture money judgment by court against James Otis Henderson, Henderson Amusement Inc, and Barron Sloan Henderson, jointly and severally, remaining to be paid is hereby amended to be: **\$8,465,050.35**.

8. The Court shall retain jurisdiction to enforce this Order and to amend it as necessary, pursuant to Fed. R. Crim. P. 32.2(e).

This the 25th day of March, 2009 .



THOMAS SELBY ELLIS, III
UNITED STATES DISTRICT JUDGE